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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,642	04/06/2001	Donald P. Gravel	STE01 P-1067	9043

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EXAMINER

THISSELL, JENNIFER I

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 01/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,642

Applicant(s)

GRAVEL ET AL.

Examiner

Jennifer I Thissell

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 26-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-18 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 7-10, 19-22 is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 15 October 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election of Invention I and Species Group I in Paper No. 4 is acknowledged. Because applicant did not distinctly and specifically point out any supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The Examiner submits that claims 1-25 read on Invention I and Species Group I, and will be examined accordingly. Therefore, claims 26-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "tack board" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said U-shaped groove" and "said horizontal flange". There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Varlonga ('972). Varlonga teaches a frame 19,20 that has at least one horizontal surface, a steel cover member 6 enclosing a portion of the frame, the cover member includes attachment members (elements located at the bottom and top, respectively, of the frame members, at approximate

midpoint between numerals 6a and 7a in Figure 1), there is a seal 18 attached to the cover member, the seal includes a resilient flap which engages the horizontal surface of the frame, ²the cover member includes a horizontal flange that extends between the side edges of the cover member, the seal includes a U-shaped groove that is configured to accept the horizontal flange of the cover (Figure 1), the seal also includes at least one finger extending into the groove. The top frame portion has a first horizontal surface, the lower frame portion has a second horizontal surface that has a second seal 4 attached to the cover member, the second seal includes a resilient flap that engages the second horizontal portion of the frame.

Claims 14, 16, 18, and 23 are rejected, as understood, under 35 U.S.C. 102(b) as being anticipated by Mecklenburg ('944). Mecklenburg teaches a steel cover member 5 that includes an attachment member 18, a seal 11 attached to the cover member, the seal includes a resilient flap 11h and at least one finger 11c extends from the seal.

Claims 1, 5, 6, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Mecozzi ('899). Mecozzi teaches a frame 92 that includes a horizontal surface, a cover member 12 that has attachment members 100, and a seal 96 attached to the cover member, the seal including a resilient flap that engages the horizontal surface of the frame. The frame further includes a

horizontal cross-member having a plurality of windows (where the fasteners extend through), and the attachment members are inserted into the windows. The cover member includes a horizontal flange member (Figure 1) that extends between the side edges of the cover. There is also a second seal 73 attached to the cover member, the second seal including a resilient flap (leftmost edge of the member).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenburg ('944) in view of Prewer ('855) and Rossiter et al. ('926), respectively. Mecklenburg teaches a steel cover as stated above, but does not state that it is wood or tack board. Prewer teaches that it is known to provide a wall system with a panel 11,12,13 that is made of wood and Rossiter teaches that it is known to provide a wall system with a panel 128 that is made of cork (column 14, line 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood and

cork board, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. Wood panels may provide a system with a thicker material that would insulate (sound and temperature) better than a metal panel, while corkboard would provide an excellent surface for attaching temporary items with a tack, such as pictures or diagrams.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecozzi ('899) in view of Prewer ('855) and Rossiter et al. ('926), respectively. Mecozzi teaches a system with a steel cover as stated above, but does not state that the cover could have wood or tack board attached or part of the cover. Prewer teaches that it is known to provide a wall system with a panel 11,12,13 that is made of wood and Rossiter teaches that it is known to provide a wall system with a panel 128 that is made of cork (column 14, line 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide wall panels/covers that are made of various known materials, including wood and cork board, since it is within the general skill of a worker in the art to select a known material based on the suitability for the intended use as a matter of obvious design choice. The panel could have wood or tack board attached and therefore part of the cover, allowing for a façade on the metal surface. Wood panels may provide a system with a thicker material that would insulate

(sound and temperature) better than a metal panel alone, while corkboard would provide an excellent surface for attaching temporary items with a tack, such as pictures or diagrams.

Allowable Subject Matter

Claims 7-10 and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art fails to teach a partition system that combines all the specific features of claim 5 and a cover that combines all the specific features of claim 18, in addition to a cover member with a vertical flange having a pair of angled slots, as well as attachment members that comprise spring clips that have a central plate having a pair of side flanges inserted into one of the pair of slots.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



December 29, 2002



Carl D. Friedman
Supervisory Patent Examiner
Group 3600